

2/2/78 [1]

Folder Citation: Collection: Office of Staff Secretary; Series: Presidential Files; Folder: 2/2/78 [1]; Container 61

To See Complete Finding Aid:

http://www.jimmycarterlibrary.gov/library/findingaids/Staff_Secretary.pdf

THE WHITE HOUSE
WASHINGTON

January 30, 1978

Stu Eizenstat

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Tim Kraft

RE: CIVIL SERVICE REFORM INITIATIVE

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
/	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION
FYI

	MONDALE
	COSTANZA
/	EIZENSTAT
	JORDAN
	LIPSHUTZ
	MOORE
	POWELL
	WATSON
	McINTYRE
	SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	ARAGON
	BOURNE
	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
	GAMMILL

/	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

January 27, 1978

*Stu. Set up
meeting (30 min.) -
I can't decide about
more information
J.C.*

MEMORANDUM FOR THE PRESIDENT

FROM:

STU EIZENSTAT
STEVE SIMMONS
SI LAZARUS

Stu

SUBJECT:

Civil Service Reform Initiative

This folder contains three decision memoranda on the Civil Service reform initiative. The first comprehensive McIntyre/Campbell memo in Tab A outlines the elements of the Civil Service reform package for your decision. The memo has been distributed to the Cabinet and a few independent agencies, and their comments have been summarized in the memo itself.

In Tab B is a second decision memo written by Campbell alone. He and OMB disagree on whether proposed changes in the comparability pay process for Federal employees should be sent to Congress as part of the Civil Service reform package. He makes his argument in this memo.

In Tab C is a McIntyre/Campbell decision memo that discusses whether we should at this stage offer to organized labor your support for changes which they desire in the institutions regulating Federal employee labor relations, in order to gain union support for the overall Civil Service reform package. The full agency comments are included in the memo.

Our comments are included at the beginning of each Tab. Frank Moore has joined us in commenting on the subject matter in Tabs B and C.

At the back of the folder are appendices where you can find the full Cabinet and agency comments on the first two decision memoranda.

*not
app for 1*

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
/	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION
FYI

cc of whole package

	MONDALE
	COSTANZA
/	EIZENSTAT
	JORDAN
	LIPSHUTZ
	MOORE
	POWELL
	WATSON
/	McINTYRE - <i>maybe</i>
	SCHULTZE <i>known with</i>

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER

Comments due to
Carp/Huron within
48 hours; due to
Staff Secretary
next day

let us know if there is a

	ARAGON <i>problem</i>
	BOURNE <i>of giving</i>
	BRZEZINSKI <i>them</i>
	BUTLER <i>Stu's</i>
	CARP <i>comments</i>
	H. CARTER <i>is any</i>
	CLOUGH <i>can send</i>
	FALLOWS <i>cc of McT.</i>
	FIRST LADY <i>names</i>
	HARDEN <i>to</i>
	HUTCHESON
	JAGODA
	GAMMILL

	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

Tim

THE WHITE HOUSE
WASHINGTON

February 2, 1978

Stu Eizenstat

The attached was returned in the
President's outbox and is forwarded
to you for appropriate handling.

Rick Hutcheson

cc: Jim McIntyre

RE: CIVIL SERVICE REORGANIZATION

THE PRESIDENT HAS SEEN.

2:30 p.m.

THE WHITE HOUSE
WASHINGTON

MEETING WITH THE PRESIDENT
The Cabinet Room
Thursday, February 2, 1978

Re: Civil Service Reorganization

Civil Service Commission

Alan Campbell
Jule Sugarman

OMB

Bo Cutter for Jim McIntyre
Harrison Wellford
Wayne Granquist

Domestic Policy

Stu Eizenstat	Si Lazarus
Bert Carp	Steve Simmons
David Rubenstein	

Congressional Liaison

Frank Moore
Les Francis

Political Coordination

Hamilton Jordan
Landon Butler

Stu -
Work out
as many
remaining as
differences as
possible - resubmit
if necessary
J

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR THE PRESIDENT

FROM:

STU EIZENSTAT
JIM MCINTYRE
ALAN CAMPBELL

Stu

SUBJECT:

Meeting to Discuss Civil Service Reform
Initiative

After reading the decision memoranda on the Civil Service reform initiative, you requested a meeting so that you could have more information on the reform proposals, and a meeting has been set up for 2:30 P.M. today in the Cabinet Room. These reform proposals are complicated, and you may want to schedule a second meeting if we do not get through enough material today.

The Reorganization Project and White House staff present will, of course, be prepared to discuss any aspect of the reform proposals. You have already approved the replacing of the Civil Service Commission with an Office of Personnel Management (OPM) and a Merit Systems Protection Board (MSPB) and changes in the Veterans Preference Law. In order to focus today's discussion, we thought it would be helpful to list below the issues which remain for decision, and a brief summary of questions (if any) you specifically raised on the decision memoranda.

Issues for Discussion

1. The Senior Executive Service (SES)

President's Comment: You have questioned whether the annual bonus proposal would not soon become a fixed salary increase for the same level of performance of executives, and asked

*9000 42-50000
+ 20%
53% \$ 21 mil*

about what salary employees who are dismissed from the SES would receive at the GS-15 level. You have also asked about the number of Senior Executive positions over the past 10 years.

2. An Incentive Pay System for Lower Level Federal Managers and Supervisors

GS 9-15 158,000

President's Comment: You have inquired about the cost and the implications of this proposal.

3. Speedier Disciplinary System

President's Comment: You have noted Administrator Cleland's concern about the possibility of different procedures for union and non-union employees providing opposite results in similar cases and the proposal's impact on union membership.

4. Decentralization of Personnel Authorities

President's Comment: You pointed to the comments of Defense, Agriculture, and Transportation, suggesting that additional agency resources might be required for this proposal.

5. Campbell Memo on Including Changes in Federal Pay Comparability in Civil Service Reform Act

The question here is whether this issue should be included in the Civil Service reform package or dealt with at a different time.

6. Federal Labor-Management Relations

We agree the key issues here should not be included in the package but need to discuss them with you.

THE WHITE HOUSE

WASHINGTON

January 27, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT
STEVE SIMMONS
SI LAZARUS

SUBJECT: Civil Service Reform Initiative

This folder contains three decision memoranda on the Civil Service reform initiative. The first comprehensive McIntyre/Campbell memo in Tab A outlines the elements of the Civil Service reform package for your decision. The memo has been distributed to the Cabinet and a few independent agencies, and their comments have been summarized in the memo itself.

In Tab B is a second decision memo written by Campbell alone. He and OMB disagree on whether proposed changes in the comparability pay process for Federal employees should be sent to Congress as part of the Civil Service reform package. He makes his argument in this memo.

In Tab C is a McIntyre/Campbell decision memo that discusses whether we should at this stage offer to organized labor your support for changes which they desire in the institutions regulating Federal employee labor relations, in order to gain union support for the overall Civil Service reform package. The full agency comments are included in the memo.

Our comments are included at the beginning of each Tab. Frank Moore has joined us in commenting on the subject matter in Tabs B and C.

At the back of the folder are appendices where you can find the full Cabinet and agency comments on the first two decision memoranda.

Not attached

A

McINTYRE/CAMPBELL MEMO RE REFORM AND
REORGANIZATION OF THE FEDERAL PERSONNEL
SYSTEM

THE WHITE HOUSE

WASHINGTON

January 27, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT *Stu*
STEVE SIMMONS *SS*
SI LAZARUS *SL*

SUBJECT: McIntyre/Campbell Memo Re Reform and
Reorganization of the Federal Personnel
System

Background

One of the central themes of the campaign was your promise to improve the performance of the Federal bureaucracy. We believe that this Civil Service reform package could be the most important single initiative you will take during the first term to fulfill your pledge to make government more efficient and responsive. If passed, these reforms will cut across all agency boundaries and can make every segment of the Federal government better serve the American people. We also believe that, while "Civil Service reform" seems technical, it will gain broad public support, if we effectively communicate its aims.

As noted in the decision memo, your Cabinet members are extremely supportive of this initiative.

The Proposals

We have been working very closely with the Reorganization Project team on the issues discussed in this memo, and in general we agree with all that is recommended by McIntyre and Campbell. Our brief comments on each of the proposals follows:

IA. Replace the Civil Service Commission with an Office Of Personnel Management (OPM) and a Merit Systems Protection Board (MSPB). Recommendation: Approve Reorganization Plan, Locate OPM as an Independent Executive Agency, Do not designate Director as Cabinet Member but ask that Director attend Cabinet meetings.

Although there may be some intense questioning during the legislative process regarding the jurisdiction of the Merit Systems Protection Board, this proposal appears to have support in Congress and among key public employee unions. It is sound on the merits: the OPM can play a strong managerial role, and the new MSPB can be a truly independent adjudicatory body. The question of where the OPM should be located is close. Its function is analogous to that of OMB. But putting OPM in EOP would radically increase the EOP staff. Some will also criticize this as a step toward politicization of personnel policy.

We recommend that OPM become a strong independent agency. In light of the need to keep the Cabinet size down and the precedent set by inclusion of the OPM Director, we recommend against Cabinet status. However, the Director's managerial responsibility is relevant to every agency and should be reinforced. Also, the Director's weekly interaction with Cabinet members would be mutually beneficial. Thus we recommend that you invite the Director to attend Cabinet meetings.

IIA. Establish a Senior Executive Service. Recommendation: Approve.

Virtually all your agency heads agree that their ability to implement policy will be sharply enhanced by the increased incentives and flexibility for top government managers involved in this proposal. We agree.

As the memo points out, there are enough differences between this proposal and the Nixon proposal to make this one more acceptable, and we believe it will meet with Congressional approval. The memo is inaccurate when it states that the Nixon proposal received "scant attention" from Congress, for in modified fashion the Nixon legislation did pass the Senate.

The most troublesome political problem will probably be the amount of bonuses paid the Senior Executives. If a Senior Executive is making the maximum for supergrades of \$47,500 annually, a 20% bonus would put him just below the \$57,500 presently earned by Congressmen. For Senior Executives making \$50,000 (estimated at about 300 persons to begin with, but the number will increase soon) a full bonus would make the figure \$60,000. SES executives also would be eligible for an additional 10% deferred income bonus. (Up to 2500 will be able to earn an additional \$2,500 per year, 5-year stipend, and up to 100 a \$7,500

per year, 5-year stipend for outstanding performance.) It should be stressed that very few Senior Executives will receive the full bonus, and that a bonus is a one year payment -- not an annual salary increase. Without the prospect of substantial rewards, it also seems doubtful whether many current supergrades will accept the significant down-side risks of joining the SES. However, these payment figures appear high, and will meet with Congressional and public criticism. The 10% deferred income feature also has "tax break" connotations associated with it that we should try to avoid. We recommend you disapprove the 10% deferred income part of the proposal as a reasonable compromise.

II B. Incentive Pay System for Lower Level Federal Managers and Supervisors. Recommendation: Approve.

The President of the leading public employee union has indicated privately to us that he will support this proposal, as have key House members. This can be a vital element in improving managerial performance and providing a spur for managers to better evaluate their employees.

We disagree with Jay Solomon's and Bob Bergland's objections to this proposal. Incentive bonuses have worked well in the private sector. In fact, the Reorganization Project recommendations on this point were developed in large part on the advice of many private industry leaders. And although there undoubtedly will be methodologies to work out, it is not premature to move forward with this program. Your other Cabinet members agree with us that an incentive bonus program should be created now.

IIIA. A Speedier Disciplinary System. Recommendation: Approve.

The details of this proposal are not yet fixed because of needed last minute changes on some key issues. We are working intensively with CSC, OMB, and others to refine their new two-part proposal -- an arbitration appeal procedure for union members, and a streamlined quasi-judicial appeals system for others. This concept appears to serve best the interests of both management and employees.

IIIB. Decentralization of Personnel Authorities. Recommendation: Approve.

As you will remember, one of the most vexing problems for the Cabinet members in the early months of the Administration

was the need to constantly check appointments with the Civil Service Commission. Those Cabinet member complaints exemplify the many problems that stem from the existing over-centralized personnel system, and they will be minimized by approving this proposal.

IVA. Changing the Framework for Labor Management Relations.

This issue is treated in Tab C.

VA. Changes in the Veterans Preference Law. Recommendation: Approve all four Veterans Preference changes.

These controversial Veterans Preference proposals will undoubtedly be the most difficult part of the Civil Service reform package to pass. However, for the reasons outlined in the memo, we believe these changes need to be made. It may be easier to pass legislation regarding military retirees because of the "double dipping" associated with retirees getting an additional Civil Service system preference, than to pass the other Veterans Preference changes.

We oppose Secretary Brown's recommendation to raise the 10% disability requirement to 30%. However meritorious the proposal, the political opposition will be fiercely negative on the part of the Veterans groups, many Congressmen, and others. This reaction would make passage almost impossible, and might well adversely affect the rest of the Civil Service reform package.

We recommend that OMB and CSC be instructed to develop ways to help veterans in the Civil Service without undercutting equal employment or efficiency objectives. Some "sweeteners" would make the Veterans Preference modifications more acceptable. For instance, greater efforts could be undertaken to strengthen the recruitment and training of disabled veterans.

The Reorganization Project also will be recommending a number of administrative actions to enhance women and minority employment. These regulatory steps are not listed in the memo.

ADMINISTRATIVELY CONFIDENTIAL

THE WHITE HOUSE

WASHINGTON

January 19, 1978

MEMORANDUM FOR: THE PRESIDENT
FROM: RICHARD PETTIGREW *Rush*
SUBJECT: McIntyre/Campbell Personnel Management
Memoranda, dated January 18, 1978

I concur in the recommendations and applaud the civil service reform effort thus far. I would make three additional points concerning the memoranda:

1. Creating an OPM should be regarded as an interim step. We now have studies underway regarding:

Administrative services
Data processing
Personnel management

However, we do not have a study of how these discrete functions, including OPM, might be consolidated into a single department. Before deciding the ultimate status of OPM, you should direct such a study.

2. The public perception is that you can't fire a public employee. Central to the reform is an expeditious means of effecting personnel discharge and discipline. The specifics of a discharge and appeals procedure should be finally resolved before any portion of the package goes to Congress.
3. There has been a reluctance to involve certain key Members of Congress because the labor and veterans issues were still being negotiated with Donahue and Cleland. For instance, Senator Cranston's support will be essential if we are to achieve reforms of the veteran's preference, but he has not yet been contacted. I recommend that you direct that key potential allies on the Hill be directly involved in the process of developing the specifics on matters within their domains, consistent with the guidance you have given.

ADMINISTRATIVELY CONFIDENTIAL



PRESIDENT'S
REORGANIZATION
PROJECT

JAN 18 1978

WASHINGTON, D.C. 20503

MEMORANDUM FOR THE PRESIDENT

FROM: James T. McIntyre, Jr. and Alan K. Campbell

SUBJECT: Reform and Reorganization of the Federal
Personnel System

At our meeting with you on November 18, 1977, we outlined the conclusions of the Federal Personnel Management Project and received your approval to develop detailed recommendations through broader consultations with the Congress and affected groups. This memorandum seeks specific guidance from you on the most significant issues that have emerged from our discussions. Your decisions will permit us to proceed with the drafting of a Reorganization Plan and a Comprehensive Civil Service Reform Act in 1978--both of which are scheduled for introduction in February. As Congressional consultation continues, we will make necessary changes in the details of these proposals.

Our overall program for reform of the civil service system is characterized by several themes. We need to:

- Change the structure of current organizations to provide greater protection to the merit system and employee rights while strengthening the ability of the Government to manage its personnel;
- Provide greater incentives to managers to improve the efficiency and responsiveness of the Federal Government;
- Reduce the incredible red tape and costly delay in the present personnel system;
- Change the framework for labor-management relations; and
- Take steps to assure more effective affirmative action and equal employment opportunities.

Mr. President, this memorandum was circulated to each Cabinet Department and to the General Services and Veterans Administrations for comment. All agencies support the objectives of the reform proposals. Secretaries Blumenthal, Vance, Califano, Kreps, Harris, Schlesinger, Adams, Marshall, the Attorney General, and Acting Secretary Joseph provided general concurrence without reservation on any substantive point. Secretary Califano also expressed his general support in a January 10th memorandum to you in which he said "this is about as important as anything you will do to revitalize the Federal bureaucracy." Others provided comments on specific features in the reform package and their views are summarized in this memorandum.

The most controversial aspects of the proposals are in the labor-relations area which we set forth in a separate memorandum.

I. STRUCTURAL CHANGES TO ASSURE GREATER PROTECTION OF THE MERIT SYSTEM AND EMPLOYEE RIGHTS AND A STRONGER ROLE FOR MANAGEMENT IN THE FEDERAL PERSONNEL SYSTEM.

A. Replacing the Civil Service Commission with an Office of Personnel Management and a Merit Systems Protection Board.

The Problem: Originally established to conduct civil service examinations, the Commission's role has expanded to include the prosecution of violations of law, the development and administration of pay and classifications systems, conduct of training and investigations and the handling--through two appellate bodies--of 23 kinds of employee appeals. These inherently conflicting roles mean the Commission serves simultaneously as rulemaker, prosecutor, judge, management advisor, service provider and employee advocate. The effectiveness and credibility of the Commission are seriously impaired.

Recommendation: We recommend that Reorganization Plan authority be used to:

1. Abolish the Civil Service Commission and create an Office of Personnel Management (OPM). The OPM would be responsible for personnel administration (examining, training, pay and benefits administration,

etc.)--but would have no prosecutorial or adjudicative powers against individuals. Its Executive Level II Director, appointed by the President and confirmed by the Senate, would be the Government's management spokesman on Federal sector labor relations and coordinate all Federal personnel matters, except Presidential appointments.

2. Transfer the adjudicatory functions of the Commission to an independent Merit Systems Protection Board, headed by three bipartisan Board Members, appointed for seven years, with non-renewable overlapping terms, and removable only for cause. Provide for a Special Counsel to the Board--appointed by the President and confirmed by the Senate for fixed term--who would be responsible for investigation of violations of merit system laws and the protection of "whistleblowers" (employees who suffer reprisals for exposing management deficiencies).

Discussion: These structural changes should not encounter any significant opposition from the public, employees, management, or the Congress. Stronger protections for employees are created by the Merit Systems Protection Board, while the OPM would have a stronger management role in instituting effective personnel programs.

no
In view of the proposed role of the Director of OPM as principal Presidential advisor on personnel matters and the close cooperation that will be required between OPM and the Office of Management and Budget, consideration should be given to locating OPM in the Executive Office of the President. Factors militating against such a location are your expressed desire to reduce the size and number of units within the Executive Office and a possible perception by the Congress and the public that locating OPM within EOP would create a potential danger of "politicizing" Federal civil service matters. Approximately 7,000 employees would work for OPM and 400 for the Merit Systems Protection Board.

no
Consideration should also be given to designating the Director of OPM as a member of the Cabinet. This is consistent with the stronger role now being given to personnel managers in the corporate world.

Agency Comments: Every department and agency agreed with the recommendation to abolish the Civil Service Commission and create an Office of Personnel Management and a Merit Systems Protection Board. The Veterans Administration, however, expressed some doubt as to whether the Board could protect the integrity of the personnel system to any degree greater than the present structure.

Of the agencies that commented on the location of the proposed Office of Personnel Management, the Departments of Agriculture, Commerce and HEW support an organization within the Executive Office of the President; Defense, Interior, and the Veterans Administration oppose placement within the Executive Office and, instead, support the establishment of an independent Executive Branch agency.

Concerning Cabinet status, Agriculture, Commerce and HEW specifically support; Defense and Interior specifically oppose--although Defense states that "it might be helpful for him or her to attend Cabinet meetings."

Presidential Decision:

1. Reorganization Plan to abolish the Civil Service Commission and create an Office of Personnel Management and an independent Merit Systems Protection Board.

Approve ✓

Disapprove _____

Other _____

JC

2. Location of the Office of Personnel Management.

Independent Executive Agency ☒

Within the Executive Office of the President _____

Other _____

3. Designate Director of OPM as Member of Cabinet.

Yes _____

No ☒

II. PROVIDING MANAGERS WITH GREATER INCENTIVES.

A. Establish a Senior Executive Service.

At the very top of the Federal Government there are 9,000 senior managers. They are paid between \$42,423 and \$50,000 a year and are in charge of the operation of the vast array of Federal programs--from the regulation of strip mining to the administration of shipyards. They occupy management positions in grades GS-16 through GS-18 (the "supergrades") and include Executive Level IV and V positions. Despite their responsibilities and authorities, the present system does not distinguish their tenure rights or incentives from those of the 2.2 million employees whose activities they direct. (Career executives have rights to tenure and rank in specific positions.)

As a result, Department and Agency heads find it difficult, if not impossible, to reassign these senior executives in accordance with program needs or to remove them for inadequate performance. There are few ways to reward those senior executives who perform outstanding service, thus limiting incentives for superior performance.

Although about 15 percent of these 9,000 positions are classified as "political" (i.e., policy,

non-career) in nature--a percentage that has remained relatively constant over the past several years--the Civil Service Commission and the agencies find that dividing positions into policy and non-policy categories is arbitrary and unrealistic. Moreover, well-qualified career civil servants are reluctant to assume top "policy positions" because they view such a move as requiring a decision to identify with the political party in office. This perception makes it difficult for them to return to career jobs after their service.

Recommendation: We recommend that you seek legislation to establish a Senior Executive Service (SES).

- The proposed Service would comprise those 9,000 senior executives whose duties are managerial and would replace GS-16, 17 and 18 and Executive Levels IV and V.
- The Service would be comprised of 15 percent non-career and 85 percent career employees (the present ratio). This ratio would be written into the legislation (unlike the present system, under which there is no limitation in law to restrict the number of positions that may be defined by the Commission as "policy making" and hence non-career).
- With respect to executives serving in the SES, agency heads would be authorized to:
 - transfer executives among positions on the basis of the needs of the Government;
 - set their salaries at rates determined by the agency head within a range spelled out by legislation (\$42,500 to \$50,000 per year);

pay annual bonuses for superior performance to not more than 50 percent of the SES in amounts up to 20 percent of salary plus 10 percent deferred compensation, with controls to assure that only the top performers received the maximum amount;

*I believe this would
quickly degenerate to
a fixed salary increase
with some part of
performance*

*] minimize
if
possible
J*

at what pay/grade level?

-- remove individuals from the SES for poor or minimal performance without appeal rights. Dismissed career executives would be eligible for re-employment rights to a position at the GS-15 level or early retirement. They would be assured salary retention. Non-career executives would, as now, have no tenure or re-employment rights.

- All career executives now serving in GS-16 through Executive Level IV posts would be eligible for the SES. Those not wishing to join would be "grandfathered" in their current positions, grades and tenure.

9000 now -
What has been
previous number
for last 10 years -

- The number of positions, and the proportion of non-career positions to be designated for the SES in each agency, would be determined by the Office of Personnel Management (OPM) and OMB upon approval of a plan submitted by the agency head. To minimize concerns expressed by some agency heads about the need for a "shield" against patronage demands, those positions designated as non-career would be fixed by the plan for two years.

Discussion: The idea of a Senior Executive Service originated with the second Hoover Commission and has been proposed previously--most recently by the Nixon Administration in 1971. The Nixon proposal was based, in contrast to the present one, on the concept of a three-year employment contract, renewable at the pleasure of the agency head. The proposal was considered "politicization" of the senior career service and received scant attention from the Congress.

We have changed the fundamental nature of the proposal by providing for: incentive pay, a legislative "freeze" on the percentage of non-career positions; and a guarantee of re-employment rights and salary retention for those careerists removed from the Service. The present proposal would also be introduced as part of a comprehensive and balanced plan aimed at issues of employee protection as well as managerial initiative.

One point of sensitivity for the Congress will be the possibility that a member of the Senior Executive Service who receives an annual bonus near the maximum envisioned (20%) would have a salary level higher than that of a Member of Congress for a given year.

For these reasons, we believe the proposal has a reasonably good chance of passage. The concept has the overwhelming endorsement of your Cabinet and agency heads. Many career executives also support this proposal; however, the chance to receive higher pay through bonuses is a main ingredient in their support. While the support or opposition of the Federal labor unions will depend upon factors spelled out in a separate memorandum on labor-management relations, the proposal is not a matter of high priority for them. Initial Congressional indications are supportive, as are the reactions of organizations like Common Cause and Ralph Nader's groups and the Committee for Economic Development

Agency Comments: All agencies support the establishment of a Senior Executive Service. Secretary Schlesinger expressed a particular interest in this proposal, citing favorable experience to date with the similar Energy Executive System. Secretary Califano expressed strong support, asserting that "our ability to change and to revitalize our programs is directly proportional to our ability to acquire, develop, move, and reward responsive, high quality executives." Secretary Brown opposes limiting the Senior Executive Service to managerial personnel on the basis that the motivational concerns apply equally to non-managerial executives. He also opposes giving the responsibility for designating the number of executive positions to OMB and the proposed OPM. He feels that this responsibility should be shared equally among the department or agency, OMB, and the proposed OPM. Secretary Brown also believes that the ratio of non-career to career positions should be higher than 15%. No other agency head commented specifically on the ratio except Administrator Cleland who supports the proposed limitation of 15% non-career while expressing reservations about distinctions between "career" and "non-career" positions within the Service.

Presidential Decision:

Propose legislation to establish Senior Executive Service.

Approve ✓

Disapprove

Other

B. An Incentive Pay System For Lower Level Federal Managers and Supervisors.

The Problem: The current Federal pay system is based upon increases in salary for longevity (step increases) and salary levels in the private sector (the principle of comparability). While these principles are appropriate for the vast majority of Federal employees, we believe that performance should be a critical criterion in determining the compensation of managers and supervisors within the Federal system. In the absence of an incentive pay system, the 135,000 Federal managers (from GS-9 to GS-15) often seek and obtain their "rewards" through bureaucratic aggrandizement (larger offices, silver water carafes) or through too-rapid promotion (in part, the cause of so-called "grade creep," resulting in many seriously over-graded positions in the civil service).

*silver carafes
may be
cheaper*

Recommendation: We recommend that you seek legislation to authorize incentive pay of up to 12 percent of salary for supervisors and managers who perform in unusually productive, timely and responsive fashion. Incentive pay would be financed by reducing the amount and frequency of automatic step increases in the affected grades for supervisory personnel and guaranteeing them only 50 percent of their annual comparability increase. The decision to give incentive pay would be made by agency managers in the context of an agency-wide plan and standards. .

Discussion: The proposal is intended to provide significant, direct, financial incentives to first-line managers for superior performance. It is proposed as a considered effort to change

the environment of the Federal work place-- from one characterized by rewards for longevity to one that rewards accomplishments. Successful implementation of the proposal will require strong audit and performance reviews to avoid charges of "cronyism." We believe that the audit capacity of the Office of Personnel Management and the oversight role of the Merit Systems Protection Board proposed above will provide strengthened protection against the improper use of bonuses. We also believe that the General Accounting Office will afford additional protection through its strong audit capacity.

Pros.

- The proposal will create a climate in which the salary progress of first-line managers will actually depend on performance and will provide a realistic tool for changing both the behavior and image of the Federal workforce.
- Properly presented, the proposal should receive broad public support.

Cons.

- Some Members of Congress, particularly in the House, will be skeptical of giving managers so much authority over salaries.
- Employee unions have traditionally resisted allowing managers to make judgments on pay and, in all probability, will oppose this proposal (even though it applies only to managers and supervisors) as a dangerous precedent for the rank-and-file employee. They may, however, be willing to accept this idea as part of an overall agreement.

Agency Comments: All agencies except Agriculture, General Services Administration, and the Veterans Administration supported the proposal for providing incentive pay to managers instead of the automatic increases. Secretary Bergland suggests that this recommendation may be premature and would favor the establishment of

proven methodologies for awarding and monitoring incentive payments prior to implementation. Administrator Solomon recommends that you reject any incentive pay or bonus systems. He believes that there have been difficulties experienced by the private sector in administering such systems which argue against their adoption in the Federal Government. Administrator Cleland is troubled by the proposal to guarantee managers only 50% of their annual comparability increase; fearing that this feature would, in effect, change the comparability increase into a disciplinary device without providing adequate safeguards against abuse. Secretaries Califano and Harris endorse the principle of full comparability with the private sector in establishing Federal compensation and would, therefore, like to see the inclusion of additional pay reforms in the memorandum for your consideration. These additional features are the subject of a separate memorandum to you from Chairman Campbell.

Presidential Decision:

Seek legislation to authorize incentive pay to managers and supervisors instead of automatic increases.

Approve ✓

Disapprove _____

Other _____

JC

Sounds like it will open a can of worms

III. STEPS TO REDUCE DELAY AND RED TAPE.

A. A Speedier Disciplinary System.

The Problem: Removing an employee for reasons of non-performance can require years of struggle. One of the most important reasons for this is that the protections intended to shield workers from arbitrary and capricious management actions have become an elaborate web. The lengthy and elaborate appeals process causes the manager to feel he or she is on trial. Managers embroiled in appeals often find that the process consumes much of their time, to the detriment of other

work. While there must be adequate substantive and procedural safeguards, the complexity of the current appeals system has caused managers to doubt seriously their ability to dismiss or discipline marginal or non-performing employees.

Recommendation: We recommend that we be authorized to develop provisions to reduce the number of alternative procedures and organizational elements involved in appeals. We would propose to distinguish between union and non-union employees. For union employees, we would devise a negotiated grievance procedure, with final stage arbitration. For non-union employees, we would establish a simplified system of appeals within Federal agencies and then to the Merit Systems Protection Board.

Discussion: We want to devise a speedier disciplinary system to create a climate in which managers may discharge non-performing employees--using due process--with reasonable assurance that their judgment, if valid, will prevail. A widely held impression is that a Government employee cannot be fired, regardless of work performance. The impression is exaggerated, but such examples as the fact that last year only 200 employees were removed expressly for inadequate performance give it credibility.

We are equally concerned that there be adequate substantive and procedural reviews of disciplinary decisions to assure the public and employees that our system is fair. We must be able to demonstrate that a removal for non-performance is not a partisan political reprisal, discrimination in disguise, or any action that would undermine merit in the Federal service.

Developing the system will require considerable consultation with Federal officials, unions and interest groups to work out the details.

We intend to develop cost estimates of the grievance and arbitration procedure. The funding of the system would be accomplished without the use of mandatory employee union dues or representation fees. Once developed, the specifics will be brought to you for decision and possible inclusion in the comprehensive civil service legislative proposal.

Pros.

- A reformed removal and appeals process will emphasize that supervisors are responsible for determining acceptable levels of performance and will provide a simple, time-certain process for removing the non-performing employee.
- It will simplify the rules of the game for employees and, at the same time, strengthen the authority of management.
- Employee unions will welcome the negotiated grievance and arbitration system.
- The grievance and arbitration procedure should reduce the workload of the Merit Systems Protection Board.

Cons.

- Substituting union participation in grievance and arbitration procedures for the current appeals system may be viewed as unduly increasing union strength in the Federal workforce.
- Insofar as a speedier system is seen as making it easier to terminate workers, the proposal may raise job security fears in the Federal workforce.

Agency Comments: Only the Department of Defense and the Veterans Administration provided specific comments on the proposal for a speedier disciplinary system. Secretary Brown supports the approach outlined but would like to define more clearly the issues you are being asked to decide, i.e., (1) the use of a negotiated procedure terminating in arbitration for employees in bargaining units, and (2) development of a reformed, though as yet undefined, disciplinary removal and appeals process for other employees that will be simpler and will strengthen the authority of management. Administrator Cleland expresses reservations about providing separate procedures for union and non-union employees. He particularly believes that different procedures could provide opposite results in similar cases, could result in unequal justice, and may provide either an incentive or disincentive to union membership.

Good points

Presidential Decision:

Continue development of specifics.

Approve ✓

Disapprove

Other

B. Decentralization of Personnel Authorities.

The Problem: Examining for jobs in the career service is now done almost exclusively by the Civil Service Commission. This is accomplished through a rigid procedure dictated largely by law which results in long delays in filling positions and an inability to meet highly varied agency needs. Last year, the Commission spent \$20.6 million on examining and re-examining 1.6 million applicants at a cost of over \$150 for each person actually selected (not including the cost to the agencies).

At the same time, of the 178,000 hiring certificates (certifying qualified applicants) issued by the Commission, agencies made no selection in 45 percent of the cases because: the position had already been filled by promotion or transfer; the individual had no interest in the particular job or location; or the agency was not satisfied with the candidates or found its choice blocked by a veteran.

In addition, many personnel matters which are essentially routine administrative actions now have to be submitted to the Civil Service Commission for prior approval. For example, a Cabinet officer who can substantially restructure a major department, expend billions of dollars, issue rules which have the force of law, and direct the activities of thousands of employees does not have the authority to extend the temporary appointment of a GS-9 engineer beyond one year; or to pay travel and transportation expenses to an employee's first duty post; or to pay an additional weekly allowance to an employee (such as a Forest Ranger) serving in a remote location. To do any of these things, prior approval of the Civil Service Commission is required on a case-by-case basis.

Recommendation: We recommend that you seek legislation to authorize the delegation of examining and other personnel authorities to agency heads through performance agreements with the Office of Personnel Management when it is determined to be efficient.

Discussion: We recognize that the current centralization of authorities is intended to assure compliance with law and regulation and that decentralization raises the potential for abuse and the possibility of inconsistent treatment among agencies.

We believe that abuse can be minimized by issuing standards, establishing reporting requirements, and accomplishing follow-up evaluations. The Office of Personnel Management, with a strong audit capacity, should have the authority to direct corrective action when required and to suspend delegations of authority to agencies that misuse them. Also, the Merit Systems Protection Board must oversee these delegated authorities through its investigations and appeals roles.

Pros.

- The proposal to decentralize authorities will reduce the paperwork burdens and eliminate much of the delay in processing routine administrative actions.
- Decentralization to the proper level will allow day-to-day operating problems to be resolved by managers who have full knowledge of the circumstances and will permit the resources of the central personnel office to be concentrated on policy issues, performance audits, and the provision of technical assistance.

Cons.

- The increased potential for abuse will be seen by some as a weakening of the merit system.

Some agencies, fearing added resource requirements, may be reluctant to assume the responsibility for decentralized authorities, especially examining.

seems certain

Agency Comments: No one opposed the proposals to authorize the decentralization of various personnel authorities to agencies. However, the Departments of Defense, Agriculture, and Transportation all cautioned that additional agency resources may be required. Additionally, Defense and Transportation suggested a closer look at the impact of decentralization with regard to labor-management relations. Secretary Brown points out, for example, that different arrangements will be negotiated between the different bargaining units which, over time, could restrict management flexibility. Secretary Adams would also like additional information and the opportunity to comment, during the legislative process, on the nature of performance agreements between the Office of Personnel Management and the Departments.

Presidential Decision:

Seek legislation (where necessary) to authorize the decentralization of authorities.

Approve ✓

Disapprove

Other

*Do this with
personnel transfers -
not increased
JC*

IV. CHANGING THE FRAMEWORK FOR LABOR-MANAGEMENT RELATIONS.

A separate memorandum is being sent to you on this subject.

V. STEPS TOWARD MORE EFFECTIVE AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY.

A. Changes in the Veterans Preference Law.

The Problem: Granting preference in Federal employment to veterans of military service has long been a national policy. It has been based upon the concept that those who served in times of war deserve special assistance in readjusting to civilian life.

The problem caused by the operation of the Veterans Preference Act of 1944 stems in large part from the fact that the Act conferred a lifetime benefit upon the veteran. This contrasts with other veterans readjustment laws--such as the G.I. Bill, the benefits of which are limited to 10 years following discharge from the service. The Act also narrowly constrains the ability of hiring agencies to consider qualified applicants by setting out the "rule of 3"--which states that only the top three candidates for a position may be considered, and requires that veterans within the top three not be passed over for selection without the written authorization of the Civil Service Commission.

As a result of the 5-point preference granted veterans, they block the top of most Civil Service registers. This often creates severe problems in gaining consideration in the hiring process for non-veteran but qualified candidates--especially women. In some areas, such as San Diego, retired military personnel are often the only individuals eligible for Federal employment.

At the other end of the spectrum--Reduction-In-Force situations--the veterans preference is absolute, and allows him to "bump" non-veterans, including those with greater seniority. The absolute veterans preference in RIFs has two effects: (1) causes women who have recently acquired middle-management positions to lose their jobs in RIFs; and (2) it causes management to refrain from carrying out a RIF because of the adverse impact on equal opportunity and affirmative action gains.

Recommendation: We propose that you seek legislation to limit veterans preference. We do not propose that you make any changes in the preferences accorded to disabled veterans.

The specific changes we propose are as follows:

1. Limiting the 5-point preference awarded to veteran applicants to the ten-year period following discharge from the service. This would equate the time during which the preference could be exercised with the G.I. Bill. This provision would not take effect until two years after enactment of the law.

- ✓ 2. Expanding the number of applicants who may be considered by a hiring agency from three (the "rule of three") to an appropriate number as determined by the Director of the Office of Personnel Management.
- ✓ 3. Eliminating veterans preference for retired military officers of field grade or above; limiting the availability of veterans preference for other retired military personnel to three years following retirement.
- ✓ 4. Replacing the absolute preference now accorded to veterans in RIF situations following their first three years of Federal employment with a provision that would grant veterans an additional five years of seniority for purposes of determining their rights.

Discussion: The veterans preference issue will be one of the most controversial in the civil service reform legislation. The changes proposed, although limited, are likely to inspire vigorous opposition from organized veterans groups--especially the Veterans of Foreign Wars.

Nevertheless, it is worth noting that several States--Oregon, California, Wisconsin, and New Jersey--have either reduced veterans preference or are in the process of doing so. Veterans organizations have not been notably successful in resisting changes. Moreover, the last Congress significantly limited veterans preference when it ended such preference for those entering the service after September 30, 1976.

There are currently 27.4 million individuals eligible for veterans preference (not counting the 2.2 million veterans who are unaffected by this proposal). By operation of the 10-year limitation, the number of veterans eligible would drop to 4 million in 1981--assuming passage of the legislation in 1978. All of those remaining eligible would be Vietnam era veterans, with a then average age of 35 years.

Women's organizations will be disappointed by these changes and will argue that they do not go far enough. They may seek to reduce veterans preference further.

Pros.

- Provides broader latitude in the selection of employees.
- Provide greater opportunities for women to obtain Federal employment and greater protection in Reduction-In-Force situations.
- Reduces disincentives to the use of RIFs by managers.
- Reduces red tape in the hiring process by lowering the number of registers returned by agencies because their choice of applicant is blocked by a veteran.

Cons.

- Will generate opposition by veterans groups.
- Could distract public attention away from significant reforms proposed in the balance of the program.

Agency Comments. Three agencies provided specific comments on the proposals for modifying veterans preference. Administrator Cleland states that he is "still not convinced that the operation of the veterans preference law results in inefficiency in the Federal personnel system" but he can "reluctantly accept the proposed changes" in view of the "pressures to make several modifications to accommodate the goal of Equal Employment Opportunity." Secretary Brown supports limitations on veterans preference for disabled veterans only where the disability is 30% or more (instead of the current 10%). Secretary Bergland concurs most favorably with the effort to limit veterans preference and cautions that further extensions of proposed limitations "would undoubtedly encounter massive veterans group opposition."

In addition to the specific comments received on the memorandum, Deputy Administrator Blum (EPA) wrote to you on January 9, 1978 urging several limitations on the use of veterans preference. Specifically, she recommended a time limit of 5 years, no preference to military retirees after 20 years service, no preference in reductions-in-force, granting preference to disabled veterans only where the disability is 30%, and abolishing the "rule of three."

Presidential Decision:

1. Limit Veterans Preference to ten years.

Approve ☒

Disapprove ☐

Other ☐

2. Expand "Rule of Three".

Approve ☒

Disapprove ☐

Other ☐

3. Limit preference for military retirees.

Approve ☒

Disapprove ☐

Other ☐

4. Replace absolute preference in RIFs with five-year additional seniority.

Approve ☒

Disapprove ☐

Other ☐

B. Equal Employment Opportunities.

The Reorganization Task Force on Civil Rights has recommended that the authority to enforce equal employment opportunity for Federal employees be transferred from the Civil Service Commission to the Equal Employment Opportunity Commission.

The advantages and disadvantages of that proposal are set forth in the decision memorandum to you on the Reorganization of Equal Employment Opportunity Laws and Programs.

B

CAMPBELL MEMO RE: INCLUDING CHANGES
IN FEDERAL PAY COMPARABILITY IN
CIVIL SERVICE REFORM ACT

THE WHITE HOUSE

WASHINGTON

January 27, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT *Stu*
FRANK MOORE *F.M.*

SUBJECT: Campbell Memo Re: Including Changes
in Federal Pay Comparability in
Civil Service Reform Act

Modifying the comparability formula and refining the General Schedule, as recommended by Chairman Campbell, may well prove the best policy response to public perceptions that federal workers are overpaid. But we agree with OMB that this decision should not be made now and that these pay proposals should not be included in the Civil Service reform package for the following reasons:

- The Civil Service Commission is not yet sure precisely how the proposed comparability changes would affect wages, and we need good data before final judgments are made in this area, and testimony is given.
- The pay proposals would be extremely controversial, drawing fire which would adversely affect the entire Civil Service reform package.
- The proposals are very complicated, would require extensive hearings slowing the progress of the overall package, and in all likelihood the proposals would not pass this session.
- The pay proposals are not integral to the reform package which focuses on improving Government management, cutting red tape, making Government more efficient, and protecting employee rights. The pay comparability issues are easily severable from the Civil Service reform thrust.
- Inclusion of such pay provisions will increase union pressure for labor participation in a collective bargaining process to determine how comparability pay factors are determined.

OMB, Labor, Defense and HEW Comments

Harrison Wellford and Wayne Granquist state that they share Campbell's concerns about federal pay comparability, but that they strongly recommend against including these pay proposals in the Civil Service reform package. They argue that the proposed pay changes "are extremely controversial and will arouse violent opposition among a broad range of constituencies" including women and minorities who heavily populate the proposed new clerical-technical schedule with its probable lowered pay scales. Deletion also will prevent tremendous federal union employee opposition, and enhance chances of reaching an agreement for labor support of the overall Civil Service reform package. Congress is certain to ask about the impact of these proposals on compensation costs, and the Administration does not have the answer since a full analysis has not yet been completed. Wellford and Granquist suggest proposing these legislative reforms at a later time. They also point out that, contrary to Campbell's assertion, the principle of "competiveness" has not been officially supported by OMB.

Ray Marshall agrees with Campbell that these pay proposals should be part of the Civil Service reform package. He also points out that if the pay proposals are included, unions will want a more substantive involvement in the pay setting process.

Harold Brown strongly agrees that the federal pay comparability changes should be included in the Civil Service reform package. He believes that Campbell's proposals will assure that the process of determining comparability is as accurate as possible and believes that the proposals will result in lower federal pay costs. Defense also recommends that reforms in the federal wage system that have already been submitted to the Congress without any Congressional action being taken be resubmitted as part of the Civil Service reform package.

Joe Califano strongly concurs with Campbell. He believes that the proposals are sound and are necessary to meet public criticism about federal employees being paid too much.

RECOMMENDATION

The Labor, Defense and HEW comments above appear to have ignored the political problems involved in sending the pay proposals to Congress at this time and the important substantive problems raised by OMB. The agencies' objectives of improving the comparability process are sound, but action now is premature pending further study of the proposals.

We have the most significant Civil Service package proposed by any President this century without these pay proposals, and a reasonable chance of passage this session. We think separate legislation to improve the comparability pay process should be submitted at a later date.

Charlie Schultze agrees with this legislative approach.

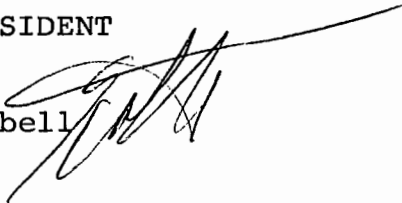


UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D. C. 20415

January 19, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: Alan K. Campbell 

SUBJECT: Inclusion of Changes in Federal Pay Comparability
in Proposed Civil Service Reform Act

On the basis of a recommendation by OMB staff, a section of the memorandum from Jim McIntyre and me on civil service reform concerning Federal pay comparability was deleted with the understanding that I would write you a separate memorandum on this subject. I believe the matter is of great importance and should be included in your overall civil service reform package.

The four suggested changes in the currently used comparability system are:

- ✓ 1. To divide the general schedule into a clerical-technical schedule and a professional-administrative schedule.
- ✓ 2. To compare fringe benefits as well as basic salaries in setting Federal pay (total compensation comparability).
- ✓ 3. To include data on state and local employees' salaries in our comparisons.
- ✓ 4. To place clerical-technical jobs on a locality wage rate basis.

These four proposals directly respond to a growing chorus of criticisms from business leaders and the public which, if not attended to, could bring down the entire comparability system. The proposals are not new, having been

recommended by the President's Panel on Federal Compensation chaired by Vice President Rockefeller in 1976 and again by our own Reorganization Task Force under the leadership of William Conley, Director of Compensation of Minneapolis Honeywell, and by Comptroller General Elmer Staats. The proposals had also been agreed to by the Assistant Secretaries for Administration. We have received the endorsement of corporate officials from General Motors, IBM, DuPont and several other major corporations for these recommendations.

As I understand OMB's staff reservations, they believe (a) that the proposed changes might conceivably lead to higher rather than lower costs and (b) that comparability as a system for setting Federal pay should be abandoned in favor of something called "competitiveness."

With respect to their first concern, I respectfully suggest that:

1. State and local salaries are clearly lower on the average than Federal salaries and including them in the data will lower Federal salaries.
2. The General Schedule covers so many different types of occupations that the rates paid for a particular occupation are often badly distorted. Clerical and technical staff are often overpaid while entrance level professionals, managers and scientists are generally underpaid. The problem for clerical and technical staff is exacerbated by the wide range in rates paid in different localities. The overall impact of these factors is to raise Federal salaries higher than they should be.
3. The best available data, although not wholly satisfactory, indicates that Federal fringe benefits are 2-5 percent higher than private sector benefits. Therefore, their inclusion would hold down Federal pay increases.

With respect to the belief that a "competitiveness" system would be better, let me simply say that no one, to my knowledge, has devised such a system. At this point it is nothing more than a theoretical abstraction without any evidence that it could really work.

3.

From a political point of view, I believe you must consider that expectations are already very high that corrective measures will be recommended to meet criticisms of the comparability system; and these criticisms could bring down the present system in favor of Congressional determination of salary levels. That route, if it parallels prior experience, would be disastrous. Our grade escalation problems of the 1960s, the refusal of people to retire, and the severe drop in the Government's ability to compete for able personnel all can be traced directly to the pressures which exist when Congress sets pay.

I strongly recommend that some or all of these improvements be included in your proposed Civil Service Reform Act. Most important is adoption of the use of total compensation (i.e., the inclusion of fringe benefits) in determining comparability and the splitting of the General Schedule in order to make secretarial, clerical, and technical pay more like that paid in the private sector. The inclusion of state and local pay and the adoption of locality rates would be useful changes but are not as essential as the other two. Further, locality rates are likely to have difficulty in obtaining Congressional approval. Our Reorganization Task Force suggests that clerical-technical rates might be set halfway between local and national rates.

Presidential Decision:

1. Include pay comparability in civil service reorganization proposals.
☒ Yes _____
No _____
If Yes, _____
2. Include fringe benefits in comparability.
☒ Approve _____
Disapprove _____
Other _____
3. ☒ Replace General Schedule with Professional and Administrative and Clerical and Technical Schedules.
Approve _____
Disapprove _____
Other _____

*Introduce separately
on date as suggested by
Stu*

4. Include state and local data in comparability.

Approve _____

7 Disapprove _____

Other _____

5. Set clerical and technical compensation on the basis of:

	<u>Local Rates</u>	<u>One Half Difference Between Local and National Rates</u>
Approve	_____	_____
7 Disapprove	_____	_____
Other	_____	_____

McINTYRE/CAMPBELL MEMO RE
LABOR-MANAGEMENT RELATIONS IN
THE FEDERAL GOVERNMENT

C

THE WHITE HOUSE

WASHINGTON

January 27, 1978

MEMORANDUM FOR: THE PRESIDENT

FROM: STU EIZENSTAT *Stu*
FRANK MOORE *F.M.*

SUBJECT: McIntyre/Campbell Memo on
Federal Labor Management
Relations

Issue

The attached OMB-CSC memorandum seeks your guidance on whether to include in the Civil Service reform package a section on federal labor-management relations, comprising one or more of three proposals:

- Establishment of a Federal Labor Relations Board (FLRB) to adjudicate a limited range of labor-management disagreements (such as unfair labor practices);
- Enactment into law of Executive Order 11491 which now governs federal labor-management relations; and,
- Establishment of a statutory Advisory Committee of union and management representatives to consult on government-wide personnel policy issues.

In preliminary discussions with Ray Marshall and Alan Campbell, Tom Donahue has indicated that, unless the Civil Service package includes all three of the above proposals, it will be greeted by union opposition. Our recommendation, explained below, is that we not include any of these items in the original package sent to Congress, but that you authorize continuing discussions with union and congressional leaders with the expectation that we may subsequently accept some labor-management provisions which will help secure enactment.

Discussion

We believe that on their merits, some of the proposed changes in federal labor relations may be useful but all should be viewed with caution. All of them cut against the Civil Service reform theme of managerial flexibility and would result in a loss of Presidential power to the Congress and the unions.

Of the three we believe that the FLRB proposal is clearly meritorious. There is much substance to the unions' criticism that the existing entity for handling labor disputes, the non-statutory Federal Labor Relations Council, is inherently biased since its members (the Director of OMB, Chairman of CSC, and Secretary of Labor) all represent management. Organizationally, it also makes sense to combine the labor-management relations functions of the Labor Department and the Federal Labor Relations Council into a new FLRB.

The other two proposed changes are matters of greater potential concern. Executive Order 11491 prescribes important limits on the scope of collective bargaining in the federal sector. A statute incorporating just those limits might be acceptable. But we share Secretary Brown's concern that either in this Congress or in subsequent sessions, amendments could lead to increased union power over personnel matters. And such a statute would transfer control over federal personnel policy from you and your appointees to Congress.

We also share Secretary Brown's concerns about the proposed Advisory Committee. As his experience with DOD's Prevailing Rate Advisory Committee demonstrates, mandatory consultation with such a group prior to major policy decisions inevitably causes serious delay and dilution of management autonomy. Such an Advisory Committee is a step toward collective bargaining rights. In the federal sector there is no profit discipline to hold down labor costs, and collective bargaining over wages and fringes could lead to constant budget pressures as it has in the Postal Service and New York City. However, a more limited, purely advisory structure created by OPM regulation would be acceptable and we would support this.

While it may well be possible to settle with the unions on a version of each of the three union proposals, we believe it would be wiser to wait to concede these steps, as necessary, during the legislative process.

Our reading of the political situation indicates:

- At this point the only way we may be able to ensure initial union support for the Civil Service package is to meet virtually all the union demands, including a relatively extreme version of the "Advisory Committee" with greater collective bargaining power than proposed in the OMB/CSC memo.
- On the other hand, it is quite possible that union opposition to the Civil Service package will not be intense, even if none of the labor-management relations proposals are included in our package. It is particularly likely that the union reaction will not be wholly negative, if the pay structure section considered at Tab B is excluded, and if the arbitration mechanism for reviewing adverse actions is included. With these changes, the package itself will pose no significant threats to the interests of the unions or members, and will indeed contain important favorable items.
- Union strength in the relevant House Committee (Post Office and Civil Service) will be sufficient to create substantial pressure to accommodate union demands on the labor-management relations issue. However, in the relevant Senate committee (Governmental Affairs), and on the floor of both the Senate and the House, support for our reforms should be quite strong, and union labor-management demands will face considerable opposition. We hope this will move first in the Senate where we would "test the waters" before agreeing with the unions on any of the three issues discussed above.

Recommendations

In light of the uncertainty concerning how the different union strength in each House of Congress on this issue will ultimately affect the package, and our hope that the unions will not strongly oppose the Civil Service reforms even without concessions on the labor front, we believe we should await congressional developments before offering concessions to the unions, and initially exclude any of the labor-management proposals from our legislative package. Our strategy should be to try first to move the bill as quickly as possible in the Senate. There the Governmental Affairs Committee wishes to schedule hearings for late February or early March, and to report the legislation by mid-spring.

If we are successful in the Senate, we will then be in a position of strength in any bargaining with union supporters in the House Post Office and Civil Service Committee.

As a framework for continuing negotiations with the unions we recommend you indicate the following with respect to the options listed on the last page of the OMB-CSC decision memo:

- (1) No, defer judgment on whether to propose enactment of Executive Order 11491 into law. Discussion on this should only occur now with key Senate and House leaders.
- (2) Yes, but approve establishment of the FLRB only as part of a separate reorganization plan (not the same one creating the OPM and MSPB since this might endanger that plan) and explore possibility of creating it by Executive Order. Do only if needed to get union support.
- (3) At this point in time authorize discussions of an Advisory Committee to OPM created only by OPM regulation (not statute) that would have no prior binding consultation rights.

Our negotiators should be authorized to indicate to the unions only that we may be prepared to accept some of these steps at the appropriate time in the legislative process in return for union support for other elements of our package.

The unions are likely to be very disappointed with our unwillingness to include these three elements in our legislative package. If Senate and House leaders indicate to us that we will need to concede more on these or other issues, we will return to you for further guidance.

Charlie Schultze and Secretary Brown concur with this approach.


Jim McIntyre also concurs and will be sending you a short separate memo.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JAN 27 1978

MEMORANDUM FOR THE PRESIDENT

FROM: James T. McIntyre, Jr. 
SUBJECT: Labor-Management Relations in the Federal Government

Since my joint memorandum to you (with Alan Campbell dated January 18) on the subject, I have come to these additional views.

There is no assurance at this time that including any proposals acceptable to your Administration concerning Federal labor relations mechanisms in our civil service reform initiative will gain support or mute opposition from organized labor. I therefore believe that the legislative and reorganization plan package should be silent on the issue, and that we should pursue further discussions with the AFL-CIO and the American Federation of Government Employees.


I would recommend including a proposal to establish a neutral Federal Labor Relations Board in our submission to the Congress, however, if our discussions with the Senate Governmental Affairs Committee leadership indicated that such inclusion would strengthen their support.

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

January 20, 1978

TO: RICK HUTCHESON

FROM: LONDON BUTLER 

SUBJECT: James McIntyre and Alan Campbell memo to
the President on Labor-Management Relations
in the Federal Government

I recommend that the President decide to proceed with discussions on all three possibilities, provided that the administration can approach negotiations with labor in the same professional and methodical way that was used to develop our labor law reform package. This approach had the following successful results:

- Labor's expectations were kept at a reasonable level;
- The negotiations were kept at the professional level, out of the spotlight;
- The results were a modest package that both sides could support.

To repeat, I would make this recommendation only if the above conditions can be met.



PRESIDENT'S
REORGANIZATION
PROJECT

WASHINGTON, D.C. 20503

JAN 18 1978

ADMINISTRATIVELY
CONFIDENTIAL

MEMORANDUM FOR THE PRESIDENT

FROM: *James T. McIntyre, Jr.* and *Alan E. Campbell*
James T. McIntyre, Jr. and Alan E. Campbell

SUBJECT: Labor-Management Relations in the Federal Government

In developing the comprehensive Civil Service Reform initiative, discussions of possible legislation on labor/management relations have been going on in two groups. OMB Acting Director McIntyre, CSC Chairman Campbell, Secretary Marshall, Secretary Brown, CEA Chairman Schultze and Domestic Advisor Eizenstat have been trying to evolve a management position. Simultaneously, CSC, OMB, Labor and DOD officials have been meeting with the AFL/CIO leadership (Tom Donahue) and the leadership of certain Federal unions.

Our discussions with labor leaders lead us to the conclusion that the unions are primarily interested in (1) giving arrangements for labor/management relations the stature of law (rather than the existing Executive order) (2) creation of a Federal Labor Relations Board and (3) developing a mechanism for union involvement in implementing personnel policy (including those policies which would grow out of the Civil Service Reform Act). They want this mechanism to include a process for binding arbitration of any differences between the unions and the Administration. In return, they say they would support most of the legislative reforms which we propose as well as the reorganization plan. It is quite possible that aggressive union opposition could delay, modify, or perhaps even defeat some of our reform goals. On the other hand, we agree there is no possibility they can achieve union goals without Administration support.

In evaluating the advantages of making concessions to AFL/CIO union leaders, it is necessary to recognize that, while influential, the AFL/CIO does not speak for all unions nor is there any assurance that employees, including union members, will not pressure their Congressional representatives to oppose those features of the reform legislation they consider adverse to their interests. Our discussions with the independent unions have made it plain that they will oppose the omnibus reform legislation regardless of what agreements are reached with the AFL/CIO leadership.

It should be noted that, during preliminary discussions with the various unions, the reform legislation included significant proposed changes concerning pay and benefits which are of particular concern to the unions. If we drop the controversial compensation proposals affecting rank-and-file employees, this action could considerably enhance the possibilities of reaching some accommodation with the unions.

As a group, the Federal officials mentioned above reject the notion that the government should agree to binding arbitration of disputes with unions on major matters of personnel policy. On the other hand, if the unions would support civil service reform and reorganization, most of these Federal officials feel it would be sound policy to agree that:

- 7 (1) The Executive Order on Federal labor relations be enacted into law, but with no changes in the scope of bargaining.
- 7 (2) A Federal Labor Relations Board be created by legislation with three members appointed by the President and confirmed by the Senate. This Board would have duties similar to the NLRB in the private sector. It would replace the present Federal Labor Relations Council which consists of the Chairman of CSC, the Director of OMB and the Secretary of Labor.
- 7 (3) There be a permanent mechanism for exchange of views between unions and Federal officials chaired by the Director of the Office of Personnel Management and including seven labor and seven agency representatives. This group would be purely advisory and would be constrained by explicit definition of scope of activities and authority. (Compensation matters would not be included in any policies subject to this mechanism.)

Chairman Schultze has reservations on step two. Secretary Brown opposes steps one and three. His views, and the contrasting views of Secretary Marshall--who strongly supports all three steps--are presented at the conclusion of this memorandum. With the exception of Secretary Brown, the other officials involved agree generally that we should pursue more detailed discussions to find out whether these arrangements would produce AFL/CIO support for the total package or perhaps localize opposition to a few issues.

Although it is difficult to summarize the pros and cons in view of these divergent views, the following would seem to represent the major arguments for and against pursuing an agreement:

Pros.

- Each step represents a long-sought, significant goal of the Federal employee unions. To achieve them, the unions may be willing to support legislative proposals they would otherwise oppose.
- With union support, most of our legislative proposals are quite likely to be accepted by Congress with only moderate and acceptable changes. Also Congressional action is more likely to be completed this year. With union opposition, defeat on some issues is a real possibility; controversy and delay are almost certain.
- Some labor experts would argue that these steps are relatively modest, represent sound public policy, and could lead to better labor-management relationships within the Federal government.
- These three steps will enhance this Administration's overall relationship with the AFL/CIO.
- If an agreement is not reached, the unions have said they will vigorously oppose the entire legislative package and the reorganization plan. This will force the Administration to undertake an unpleasant battle with the unions that will seriously harm the good relationships with the Federal employee unions that it has successfully built in the last year.

Cons.

- Some (but not all) feel that these steps may constitute a significant movement in the direction of collective bargaining for the Federal work force. They further feel that, even if these steps are carefully hedged today, they may lead to further efforts to enlarge the scope of bargaining in future years.
- Some Federal managers argue that the advantages of union support do not justify the consequences which they predict will follow these initial steps; they feel this would be particularly true if some of the more controversial proposals such as pay changes are not included in the reform legislation. Even in the short run, they argue that these steps will result in erosion of managerial rights and flexibilities, unwise compromises with labor's views, frustrating delays, and importation of restrictive and inefficient rules from private sector labor practices.
- The power of an independent Federal Labor Relations Board to chart its own course (by case decisions) is substantial. "Neutrals" are more likely than the present managerial officials to lead the program in a direction the President disapproves.
- Because the unions desire a more significant role than these steps would provide, it is possible that even all three steps together may not suffice to secure labor's support, and it is very probable that only one or two of the three will not be sufficient.

Department of Defense Views

Secretary Brown, whose Department has over 60 percent of the employees represented by unions, is opposed to steps 1 and 3 above, and believes his views reflect those of other agencies that are major employers. Secretary Brown's views follow:

- ✓ 1. Labor Law Legislation. The Executive Order on Federal labor relations should be retained. Establishment of an independent labor board is a major concession to critics of the program; further concession to unions will undermine the management flexibility which the reform legislation seeks to attain. Enactment of the Executive Order into law

will not satisfy the unions, and a legislative proposal to place the Executive Order into law will run a heavy risk of being amended in the Congress to substantially expand the scope of bargaining and to narrow management rights.

2. Federal Labor Relations Board. Establishment of an independent board has merit. The Board, however, should be created by reorganization plan rather than by legislation as proposed. Using the reorganization plan avoids the risk of substantial legislative amendments in the Congress and assures the right of the President to remove Board members.
3. Union/Management Advisory Committee. A procedure for consulting with unions on Government-wide personnel policies that is purely advisory is necessary and desirable, but the proposed mechanism goes much farther. Union consultation can be accomplished by providing that the OPM will extend national consultation rights to unions on Government-wide personnel policy matters in the same manner agencies now extend these rights to unions on policies within their authority. The proposed advisory committee of 7 union/7 management members, plus a chairman, is not just a "...mechanism for exchange of views" or "...purely advisory", it is a major step toward collective bargaining of Government-wide personnel policies.

The result could be a significant loss of management flexibility and ability to act with dispatch, the exact opposite of what is being sought in reform legislation. In fact, agreeing with the union position that key reforms should be implemented through such a committee may well assure their failure.

Department of Labor Views

Secretary Marshall strongly supports steps 1, 2, and 3. His views follow:

"Collective bargaining between agencies and unions is presently governed by Executive Order 11491. At present unions are permitted to bargain with the agencies over certain conditions of employment, including merit promotion plans, grievance and arbitration procedures, and education and training programs. Collective bargaining

is not allowed over pay and fringe benefits, union security (other than dues check-off), or adverse actions such as dismissal or long term suspensions. The Executive Order also contains a 'management rights' provision which places stringent limitations on the issues over which unions and management are permitted to bargain.

"The mere process of codifying the Executive Order would not, by itself, enlarge the scope of bargaining or limit the exercise of management rights. Therefore, I agree with the general view that the Administration support the enactment of the Executive Order into law. For reasons set out below, I also agree with the general consensus in supporting the creation of an independent Federal Labor Relations Board (FLRB) and the creation of an Advisory Board for exchange of views between unions and Federal officials. However, I believe that Administration support of these matters is acceptable only if the unions agree to the Civil Service reform package.

"The second major element, the creation of a Federal Labor Relations Board, would provide an impartial appellate mechanism that could place the entire Federal sector labor-management relationship in a positive light. The present Federal Labor Relations Council (whose members are the Director of OMB, the Chairman of the Civil Service Commission, and the Secretary of Labor) is perceived by union officials and employees as being totally management oriented and, therefore, incapable of rendering fair and objective decisions. In addition, the creation of an FLRB is appropriate organizationally, as well as from a policy point of view. The Board would bring together the present FLRC and certain operations presently in the Labor Department that deal with this program.

"Third, a permanent Advisory Board can provide the Administration with a valuable tool for carrying out constructive personnel initiatives. The Board's powers would be closely defined to insure that its input would be purely advisory. In any case, at the present time the CSC circulates for public comment significant changes in the personnel system. Formalizing such a procedure by adding union input in a structured manner should have a salutary effect.

WASHINGTON

DATE: JAN 19 78

FOR ACTION: STU EIZENSTAT

FRANK MOORE

JIM MCINTYRE *attended*HAMILTON JORDAN - *re*CHARLES SCHULTZE - *Concur*

INFO ONLY: THE VICE PRESIDENT

JODY POWELL

RICHARD PETTIGREW *attended*

BOB LIPSHUTZ

JACK WATSON

ZBIG BRZEZINSKI

FROM: RICK HUTCHESON WHITE HOUSE STAFF SECRETARY PHONE 456-7052

SUBJECT CAMPBELL MEMO DATED 1/19/78 RE INCLUSION OF CHANGES IN FEDERAL PAY
COMPARABILITY IN PROPOSED CIVIL SERVICE REFORM ACT

RESPONSE MUST BE DELIVERED TO THE STAFF SECRETARY

BY 1200 PM SATURDAY JAN 21 78

ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD; DO NOT FORWARD.

PLEASE NOTE OTHER COMMENTS BELOW:

WASHINGTON

DATE: JAN 19 78

FOR ACTION: STU EIZENSTAT

FRANK MOORE

JIM MCINTYRE

HAMILTON JORDANCHARLES SCHULTZE - *Concur*

INFO ONLY: THE VICE PRESIDENT

JODY POWELL

RICHARD PETTIGREW

BOB LIPSHUTZ

JACK WATSON

ZBIG BRZEZINSKI

FROM: RICK HUTCHESON WHITE HOUSE STAFF SECRETARY PHONE 456-7052

SUBJECT CAMPBELL MEMO DATED 1/19/78 RE INCLUSION OF CHANGES IN FEDERAL PAY
COMPARABILITY IN PROPOSED CIVIL SERVICE REFORM ACT

RESPONSE MUST BE DELIVERED TO THE STAFF SECRETARY

BY 1200 PM SATURDAY JAN 21 78

ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: () I CONCUR. ~~(X)~~ NO COMMENT. () HOLD; DO NOT FORWARD.

PLEASE NOTE OTHER COMMENTS BELOW:

THE WHITE HOUSE

WASHINGTON

Date: January 19, 1978

MEMORANDUM

FOR ACTION:

Secretary Brown
Secretary Marshall *abridged*
Secretary Marshall

FOR INFORMATION:

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Campbell memo dated 1/19/78 re Inclusion of Changes
in Federal Pay Comparability in Proposed Civil
Service Reform Act

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 12:00 Noon

DAY: Saturday

DATE: January 21, 1978

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

WASHINGTON

DATE: JAN 19 78

FOR ACTION: STU EIZENSTAT

FRANK MOORE

JIM MCINTYRE

HAMILTON JORDAN

CHARLES SCHULTZE

INFO ONLY: THE VICE PRESIDENT

JODY POWELL

RICHARD PETTIGREW

BOB LIPSHUTZ

JACK WATSON

ZBIG BRZEZINSKI

FROM: RICK HUTCHESON WHITE HOUSE STAFF SECRETARY PHONE 456-7052SUBJECT CAMPBELL MEMO DATED 1/19/78 RE INCLUSION OF CHANGES IN FEDERAL PAY
COMPARABILITY IN PROPOSED CIVIL SERVICE REFORM ACT

RESPONSE MUST BE DELIVERED TO THE STAFF SECRETARY

BY 1200 PM SATURDAY JAN 21 78

ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD; DO NOT FORWARD.

PLEASE NOTE OTHER COMMENTS BELOW:

THE WHITE HOUSE

WASHINGTON

January 20, 1978

MEMORANDUM FOR: THE PRESIDENT

FROM: RICHARD PETTIGREW *Rich*

SUBJECT: Campbell Civil Service Reform Memorandum,
dated January 19, 1978

I support inclusion of each of the changes advocated by CSC.

While Alan Campbell states that the inclusion of state and local pay and adoption of locality rates are not as essential as the other proposals, I personally regard them as very important in establishing equity with other levels of government. The Federal Government is presently draining people away from state and local governments because identical federal jobs pay higher compensation (at least in Florida and in many other states). Conversely, in high cost-of-living areas, often large cities most in need of high-quality services, we now penalize certain federal employees compared to private sector, state and local wage-earners. With noncompetitive pay rates in these areas, we cannot attract the quality personnel taxpayers expect to find in federal service.

In Florida, we worked with cost-of-living adjustments based on SMSA's. I see no good reason why locality rates could not be phased in as pay increases were warranted, without reducing anyone's compensation on a current basis, as Chairman Campbell proposes.

ID 780107

THE WHITE HOUSE
WASHINGTON

DATE: JAN 12 78

FOR ACTION:

*Send in
1 CSC reform
memo*

INFO ONLY: THE VICE PRESIDENT
JACK WATSON
RICHARD PETTIGREW

STU EIZENSTAT
JIM MCINTYRE
HARRISON WELLFORD

FROM: RICK HUTCHESON WHITE HOUSE STAFF SECRETARY PHONE 456-7052

SUBJECT CALIFANO MEMO DATED 1/10/78 RE FEDERAL PERSONNEL MANAGEMENT

RESPONSE MUST BE DELIVERED TO THE STAFF SECRETARY

BY

JAN 12 78

ACTION REQUESTED: THIS MEMO IS FORWARDED TO YOU FOR YOUR INFORMATION

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD; DO NOT FORWARD.

PLEASE NOTE OTHER COMMENTS BELOW:

*Putti -
what's status
of any memos on
the Civil Service
very memo -
anything coming
in near
future?*

THE WHITE HOUSE
WASHINGTON

<input type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input checked="" type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND

(probably for summary)

ACTION	FYI	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	MONDALE
<input type="checkbox"/>	<input type="checkbox"/>	COSTANZA
<input type="checkbox"/>	<input checked="" type="checkbox"/>	EIZENSTAT
<input type="checkbox"/>	<input type="checkbox"/>	JORDAN
<input type="checkbox"/>	<input type="checkbox"/>	LIPSHUTZ
<input type="checkbox"/>	<input type="checkbox"/>	MOORE
<input type="checkbox"/>	<input type="checkbox"/>	POWELL
<input type="checkbox"/>	<input checked="" type="checkbox"/>	WATSON
<input type="checkbox"/>	<input checked="" type="checkbox"/>	McINTYRE
<input type="checkbox"/>	<input type="checkbox"/>	SCHULTZE

<input type="checkbox"/>	ENROLLED BILL
<input type="checkbox"/>	AGENCY REPORT
<input type="checkbox"/>	CAB DECISION
<input type="checkbox"/>	EXECUTIVE ORDER

Comments due to
Carp/Huron within
48 hours; due to
Staff Secretary
next day

<input type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input type="checkbox"/>	BRZEZINSKI
<input type="checkbox"/>	BUTLER
<input type="checkbox"/>	CARP
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	GAMMILL

<input type="checkbox"/>	KRAFT
<input type="checkbox"/>	LINDER
<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	MOE
<input type="checkbox"/>	PETERSON
<input checked="" type="checkbox"/>	PETTIGREW
<input type="checkbox"/>	POSTON
<input type="checkbox"/>	PRESS
<input type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	VOORDE
<input type="checkbox"/>	WARREN



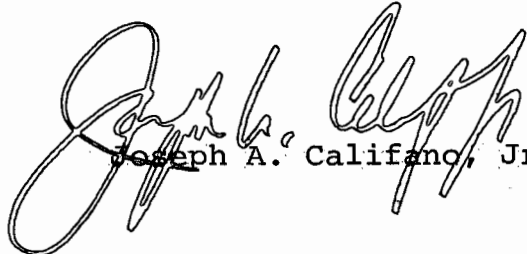
THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D. C. 20201

JAN 10 1978

MEMORANDUM FOR THE PRESIDENT

Over the last several months, Hale Champion and I, along with many others in and out of Government, have participated in the Federal Personnel Management Project, chaired by Scotty Campbell and Wayne Granquist. We in the Department of Health, Education, and Welfare have been active in helping to shape the Project recommendations and believe that these recommendations go a long way toward insuring more accountability and flexibility in the Federal Executive Service, restoring authority to managers to reward and discipline employees, strengthening Equal Employment Opportunity efforts of the Executive Branch, providing a more reasonable approach to Federal pay, establishing an effective and responsive personnel management arm for the President, and increasing the visibility and independence of merit systems protection and labor relations units for the Federal system.

I believe these innovations and changes are necessary if we are to revitalize the Federal bureaucracy to achieve this Administration's objectives. I endorse the proposals made by Scotty and Wayne and urge you to accept them and give the implementing legislation high priority in the coming year.


Joseph A. Califano, Jr.

*This is about as important as
anything you will do to revitalize
the federal bureaucracy.*

107
JAN 12 1978

THE WHITE HOUSE
WASHINGTON

NOTE: forward copies of Cabinet comments on McIntyre/Campbell memos to Steve Simmons to be summarized in the Eizenstat memo.

Rick

THE WHITE HOUSE

WASHINGTON

Date: January 18, 1978

MEMORANDUM

FOR ACTION:

Stu Eizenstat
Hamilton Jordan *etc. - subject of*
Frank Moore *concur by phone, attached*
Charles Schultze *concur by phone*

FOR INFORMATION:

The Vice President
Bob Lipshutz
Jody Powell
Jack Watson
Zbig Brzezinski *NC*
Richard Pettigrew *attached*

FROM: Rick Hutcheson, Staff Secretary *dissemin. to govt employees union on King & Labor people.*

SUBJECT: McIntyre/Campbell memo dated 1/18/78 re Labor-Management
Relations in the Federal Government
ADMINISTRATIVELY CONFIDENTIAL
McIntyre/Campbell memo dated 1/18/78 re Reform and
Reorganization of the Federal Personnel System

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 4:00 PM

DAY: Friday

DATE: January 20, 1978

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE

WASHINGTON

Date: January 18, 1978

MEMORANDUM

ACTION:

FOR ACTION:

Secretary Vance *attached*
Secretary Blumenthal *attached*
Secretary Brown - *attached*
Attorney General Bell *concur*
Secretary Andrus *attached*
Secretary Bergland *attached*

FOR INFORMATION:

Secretary Kreps - *attached to Summary 1/20* Administrator
Secretary Marshall *attached* Cleland *attached*
Secretary Califano *attached*
Secretary Harris *attached* Administrator
Secretary Adams *attached* Solomon *attached*
Secretary Schlesinger *attached*

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: McIntyre/Campbell memo dated 1/18/78 re Reform and
Reorganization of the Federal Personnel System

Cutler

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 4:00 PM

DAY: Friday

DATE: January 20, 1978

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE

WASHINGTON

Date: January 18, 1978

MEMORANDUM

FOR ACTION:

Secretary Marshall *attached - to January 19/20*
Secretary Brown *attached*

FOR INFORMATION:

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: McIntyre/Campbell memo dated 1/18/78 re Labor-Management
Relations in the Federal Government

ADMINISTRATIVELY CONFIDENTIAL

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 4:00 PM

DAY: Friday

DATE: January 20, 1978

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

X new material
submitted

I. STRUCTURAL CHANGES TO ASSURE GREATER PROTECTION OF THE MERIT SYSTEM AND A STRONGER ROLE FOR MANAGEMENT IN THE FEDERAL PERSONNEL SYSTEM.

A. Replacing the Civil Service Commission with an Office of Personnel Management and a Merit Systems Protection Board.

The Problem: Originally established to conduct civil service examinations, the Commission's role has expanded to include the prosecution of violations of law, the development and administration of pay and classifications systems, conduct of training and investigations and the handling--through two appellate bodies--of 23 kinds of employee appeals. These inherently conflicting roles mean the Commission serves simultaneously as rulemaker, prosecutor, judge, management advisor, service provider and employee advocate. The effectiveness and credibility of the Commission are seriously impaired.

Recommendation: We recommend that Reorganization Plan authority be used to:

1. Abolish the Civil Service Commission and create an Office of Personnel Management (OPM). The OPM would be responsible for personnel administration (examining, training, pay and benefits administration, etc.)--but would have no prosecutorial or adjudicative powers against individuals. Its Executive Level II Director, appointed by the President and confirmed by the Senate, would be the Government's management spokesman on Federal sector labor relations and coordinate all Federal personnel matters, except Presidential appointments.
2. Transfer the adjudicatory functions of the Commission to an independent Merit Systems Protection Board, headed by three bipartisan Board Members, appointed for seven years, with non-renewable overlapping terms, and removable only for cause. Provide for a Special Counsel to the Board--appointed by the President and confirmed by the Senate for fixed term--who would be responsible for investigation of violations of

merit system laws and the protection of "whistleblowers" (employees who suffer reprisals for exposing management deficiencies).

Discussion: These structural changes should not encounter any significant opposition from the public, employees, management, or the Congress. Stronger protections for employees are created by the Merit Systems Protection Board, while the OPM would have a stronger management role in instituting effective personnel programs.

In view of the proposed role of the Director of OPM as principal Presidential advisor on personnel matters and the close cooperation that will be required between OPM and the Office of Management and Budget, consideration should be given to locating OPM in the Executive Office of the President. Factors militating against such a location are your expressed desire to reduce the size and number of units within the Executive Office and a possible perception by the Congress and the public that locating OPM within EOP would create a potential danger of "politicizing" Federal civil service matters. Approximately 7,000 employees would work for OPM and 400 for the Merit Systems Protection Board.

Consideration should also be given to designating the Director of OPM as a member of the Cabinet. This is consistent with the stronger role now being given to personnel managers in the corporate world.

Presidential Decision:

1. Reorganization Plan to abolish the Civil Service Commission and create an Office of Personnel Management and an independent Merit Systems Protection Board.

Approve _____

Disapprove _____

Other _____

2. Location of the Office of Personnel Management.

Independent Executive Agency _____

Within the Executive Office of the President _____

Other _____

3. Designate Director of OPM as Member of Cabinet.

Yes _____

No _____

II. PROVIDING MANAGERS WITH GREATER INCENTIVES.

A. Establish a Senior Executive Service.

At the very top of the Federal Government there are 9,000 senior managers. They are paid between \$42,423 and \$50,000 a year and are in charge of the operation of the vast array of Federal programs--from the regulation of strip mining to the administration of shipyards. They occupy management positions in grades GS-16 through GS-18 (the "supergrades") and include Executive Level IV and V positions. Despite their responsibilities and authorities, the present system does not distinguish their tenure rights or incentives from those of the 2.2 million employees whose activities they direct. (Career executives have rights to tenure and rank in specific positions.)

As a result, Department and Agency heads find it difficult, if not impossible, to reassign these senior executives in accordance with program needs or to remove them for inadequate performance. There are few ways to reward those senior executives who perform outstanding service, thus limiting incentives for superior performance.

Although about 15 percent of these 9,000 positions are classified as "political" (i.e., policy,

non-career) in nature--a percentage that has remained relatively constant over the past several years--the Civil Service Commission and the agencies find that dividing positions into policy and non-policy categories is arbitrary and unrealistic. Moreover, well-qualified career civil servants are reluctant to assume top "policy positions" because they view such a move as requiring a decision to identify with the political party in office. This perception makes it difficult for them to return to career jobs after their service.

Recommendation: We recommend that you seek legislation to establish a Senior Executive Service (SES).

- The proposed Service would comprise those 9,000 senior executives whose duties are managerial and would replace GS-16, 17 and 18 and Executive Levels IV and V.
- The Service would be comprised of 15 percent non-career and 85 percent career employees (the present ratio). This ratio would be written into the legislation (unlike the present system, under which there is no limitation in law to restrict the number of positions that may be defined by the Commission as "policy making" and hence non-career).
- With respect to executives serving in the SES, agency heads would be authorized to:
 - transfer executives among positions on the basis of the needs of the Government;
 - set their salaries at rates determined by the agency head within a range spelled out by legislation (\$42,500 to \$50,000 per year);
 - pay annual bonuses for superior performance to not more than 50 percent of the SES in amounts up to 20 percent of salary plus 10 percent deferred compensation, with controls to assure that only the top performers received the maximum amount;

- remove individuals from the SES for poor or minimal performance without appeal rights. Dismissed career executives would be eligible for re-employment rights to a position at the GS-15 level or early retirement. They would be assured salary retention. Non-career executives would, as now, have no tenure or re-employment rights.
- All career executives now serving in GS-16 through Executive Level IV posts would be eligible for the SES. Those not wishing to join would be "grandfathered" in their current positions, grades and tenure.
- The number of positions, and the proportion of non-career positions to be designated for the SES in each agency, would be determined by the Office of Personnel Management (OPM) and OMB upon approval of a plan submitted by the agency head. To minimize concerns expressed by some agency heads about the need for a "shield" against patronage demands, those positions designated as non-career would be fixed by the plan for two years.

Discussion: The idea of a Senior Executive Service originated with the second Hoover Commission and has been proposed previously--most recently by the Nixon Administration in 1971. The Nixon proposal was based, in contrast to the present one, on the concept of a three-year employment contract, renewable at the pleasure of the agency head. The proposal was considered "politicization" of the senior career service and received scant attention from the Congress.

We have changed the fundamental nature of the proposal by providing for: incentive pay, a legislative "freeze" on the percentage of non-career positions; and a guarantee of re-employment rights and salary retention for those careerists removed from the Service. The present proposal would also be introduced as part of a comprehensive and balanced plan aimed at issues of employee protection as well as managerial initiative.

One point of sensitivity for the Congress will be the possibility that a member of the Senior Executive Service who receives an annual bonus near the maximum envisioned (20%) would have a salary level higher than that of a Member of Congress for a given year.

For these reasons, we believe the proposal has a reasonably good chance of passage. It has the overwhelming endorsement of your Cabinet and agency heads. Many career executives also support this proposal; however, the chance to receive higher pay through bonuses is a main ingredient in their support. While the support or opposition of the Federal labor unions will depend upon factors spelled out in a separate memorandum on labor-management relations, the proposal is not a matter of high priority for them. Initial Congressional indications are supportive, as are the reactions of organizations like Common Cause and Ralph Nader's groups and the Committee for Economic Development.

Presidential Decision:

Propose legislation to establish Senior Executive Service.

Approve _____

Disapprove _____

Other _____

B. An Incentive Pay System For Lower Level Federal Managers and Supervisors.

The Problem: The current Federal pay system is based upon increases in salary for longevity (step increases) and salary levels in the private sector (the principle of comparability). While these principles are appropriate for the vast majority of Federal employees, we believe that performance should be a critical criterion in determining the compensation of managers and supervisors within the Federal system. In the absence of an incentive pay system, the 135,000 Federal managers (from GS-9 to GS-15) often seek and obtain their "rewards" through bureaucratic

aggrandizement (larger offices, silver water carafes) or through too-rapid promotion (in part, the cause of so-called "grade creep," resulting in many seriously over-graded positions in the civil service).

Recommendation: We recommend that you seek legislation to authorize incentive pay of up to 12 percent of salary for supervisors and managers who perform in unusually productive, timely and responsive fashion. Incentive pay would be financed by reducing the amount and frequency of automatic step increases in the affected grades for supervisory personnel and guaranteeing them only 50 percent of their annual comparability increase. The decision to give incentive pay would be made by agency managers in the context of an agency-wide plan and standards.

Discussion: The proposal is intended to provide significant, direct, financial incentives to first-line managers for superior performance. It is proposed as a considered effort to change the environment of the Federal work place--from one characterized by rewards for longevity to one that rewards accomplishments. Successful implementation of the proposal will require strong audit and performance reviews to avoid charges of "cronyism." We believe that the audit capacity of the Office of Personnel Management and the oversight role of the Merit Systems Protection Board proposed above will provide strengthened protection against the improper use of bonuses. We also believe that the General Accounting Office will afford additional protection through its strong audit capacity.

Pros.

- The proposal will create a climate in which the salary progress of first-line managers will actually depend on performance and will provide a realistic tool for changing both the behavior and image of the Federal workforce.
- Properly presented, the proposal should receive broad public support.

Cons.

- Some Members of Congress, particularly in the House, will be skeptical of giving managers so much authority over salaries.
- Employee unions have traditionally resisted allowing managers to make judgments on pay and, in all probability, will oppose this proposal (even though it applies only to managers and supervisors) as a dangerous precedent for the rank-and-file employee. They may, however, be willing to accept this idea as part of an overall agreement.

Presidential Decision:

Seek legislation to authorize incentive pay to managers and supervisors instead of automatic increases.

Approve _____

Disapprove _____

Other _____

III. STEPS TO REDUCE DELAY AND RED TAPE.

A. A Speedier Disciplinary System.

The Problem: Removing an employee for reasons of non-performance can require years of struggle. One of the most important reasons for this is that the protections intended to shield workers from arbitrary and capricious management actions have become an elaborate web. The lengthy and elaborate appeals process causes the manager to feel he or she is on trial. Managers embroiled in appeals often find that the process consumes much of their time, to the detriment of other work. While there must be adequate substantive and procedural safeguards, the complexity of the current appeals system has caused managers to doubt seriously their ability to dismiss or discipline marginal or non-performing employees.

Recommendation: We recommend that we be authorized to develop provisions to reduce the number of alternative procedures and organizational elements involved in appeals. We would propose to distinguish between union and non-union employees. For union employees, we would devise a negotiated grievance procedure, with final stage arbitration. For non-union employees, we would establish a simplified system of appeals within Federal agencies and then to the Merit Systems Protection Board.

Discussion: We want to devise a speedier disciplinary system to create a climate in which managers may discharge non-performing employees--using due process--with reasonable assurance that their judgment, if valid, will prevail. A widely held impression is that a Government employee cannot be fired, regardless of work performance. The impression is exaggerated, but such examples as the fact that last year only 200 employees were removed expressly for inadequate performance give it credibility.

We are equally concerned that there be adequate substantive and procedural reviews of disciplinary decisions to assure the public and employees that our system is fair. We must be able to demonstrate that a removal for non-performance is not a partisan political reprisal, discrimination in disguise, or any action that would undermine merit in the Federal service.

Developing the system will require considerable consultation with Federal officials, unions and interest groups to work out the details.

We intend to develop cost estimates of the grievance and arbitration procedure. The funding of the system would be accomplished without the use of mandatory employee union dues or representation fees. Once developed, the specifics will be brought to you for decision and possible inclusion in the comprehensive civil service legislative proposal.

Pros.

- A reformed removal and appeals process will emphasize that supervisors are responsible for determining acceptable levels of performance and will provide a simple, time-certain process for removing the non-performing employee.
- It will simplify the rules of the game for employees and, at the same time, strengthen the authority of management.
- Employee unions will welcome the negotiated grievance and arbitration system.
- The grievance and arbitration procedure should reduce the workload of the Merit Systems Protection Board.

Cons.

- Substituting union participation in grievance and arbitration procedures for the current appeals system may be viewed as unduly increasing union strength in the Federal workforce.
- Insofar as a speedier system is seen as making it easier to terminate workers, the proposal may raise job security fears in the Federal workforce.

Presidential Decision:

Continue development of specifics.

Approve_____

Disapprove_____

Other_____

B. Decentralization of Personnel Authorities.

The Problem: Examining for jobs in the career service is now done almost exclusively by the Civil Service Commission. This is accomplished through a rigid procedure dictated largely by law which results in long delays in filling positions and an inability to meet highly varied agency needs. Last year, the Commission spent \$20.6 million on examining and re-examining 1.6 million applicants at a cost of over \$150 for each person actually selected (not including the cost to the agencies).

At the same time, of the 178,000 hiring certificates (certifying qualified applicants) issued by the Commission, agencies made no selection in 45 percent of the cases because: the position had already been filled by promotion or transfer; the individual had no interest in the particular job or location; or the agency was not satisfied with the candidates or found its choice blocked by a veteran.

In addition, many personnel matters which are essentially routine administrative actions now have to be submitted to the Civil Service Commission for prior approval. For example, a Cabinet officer who can substantially restructure a major department, expend billions of dollars, issue rules which have the force of law, and direct the activities of thousands of employees does not have the authority to extend the temporary appointment of a GS-9 engineer beyond one year; or to pay travel and transportation expenses to an employee's first duty post; or to pay an additional weekly allowance to an employee (such as a Forest Ranger) serving in a remote location. To do any of these things, prior approval of the Civil Service Commission is required on a case-by-case basis.

Recommendation: We recommend that you seek legislation to authorize the delegation of examining and other personnel authorities to agency heads through performance agreements with the Office of Personnel Management when it is determined to be efficient.

Discussion: We recognize that the current centralization of authorities is intended to assure compliance with law and regulation and that decentralization raises the potential for abuse and the possibility of inconsistent treatment among agencies.

We believe that abuse can be minimized by issuing standards, establishing reporting requirements, and accomplishing follow-up evaluations. The Office of Personnel Management, with a strong audit capacity, should have the authority to direct corrective action when required and to suspend delegations of authority to agencies that misuse them. Also, the Merit Systems Protection Board must oversee these delegated authorities through its investigations and appeals roles.

Pros.

- The proposal to decentralize authorities will reduce the paperwork burdens and eliminate much of the delay in processing routine administrative actions.
- Decentralization to the proper level will allow day-to-day operating problems to be resolved by managers who have full knowledge of the circumstances and will permit the resources of the central personnel office to be concentrated on policy issues, performance audits, and the provision of technical assistance.

Cons.

- The increased potential for abuse will be seen by some as a weakening of the merit system.
- Some agencies, fearing added resource requirements, may be reluctant to assume the responsibility for decentralized authorities, especially examining.

Presidential Decision:

Seek legislation (where necessary) to authorize the decentralization of authorities.

Approve _____

Disapprove _____

Other _____

IV. CHANGING THE FRAMEWORK FOR LABOR-MANAGEMENT RELATIONS.

A separate memorandum is being sent to you on this subject.

V. STEPS TOWARD MORE EFFECTIVE AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY.

A. Changes in the Veterans Preference Law.

The Problem: Granting preference in Federal employment to veterans of military service has long been a national policy. It has been based upon the concept that those who served in times of war deserve special assistance in readjusting to civilian life.

The problem caused by the operation of the Veterans Preference Act of 1944 stems in large part from the fact that the Act conferred a lifetime benefit upon the veteran. This contrasts with other veterans readjustment laws--such as the G.I. Bill, the benefits of which are limited to 10 years following discharge from the service. The Act also narrowly constrains the ability of hiring agencies to consider qualified applicants by setting out the "rule of 3"--which states that only the top three candidates for a position may be considered, and requires that veterans within the top three not be passed over for selection without the written authorization of the Civil Service Commission.

As a result of the 5-point preference granted veterans, they block the top of most Civil Service registers. This often creates severe

problems in gaining consideration in the hiring process for non-veteran but qualified candidates--especially women. In some areas, such as San Diego, retired military personnel are often the only individuals eligible for Federal employment.

At the other end of the spectrum--Reduction-In-Force situations--the veterans preference is absolute, and allows him to "bump" non-veterans, including those with greater seniority. The absolute veterans preference in RIFs has two effects: (1) causes women who have recently acquired middle-management positions to lose their jobs in RIFs; and (2) it causes management to refrain from carrying out a RIF because of the adverse impact on equal opportunity and affirmative action gains.

Recommendation: We propose that you seek legislation to limit veterans preference. We do not propose that you make any changes in the preferences accorded to disabled veterans.

The specific changes we propose are as follows:

1. Limiting the 5-point preference awarded to veteran applicants to the ten-year period following discharge from the service. This would equate the time during which the preference could be exercised with the G.I. Bill. This provision would not take effect until two years after enactment of the law.
2. Expanding the number of applicants who may be considered by a hiring agency from three (the "rule of three") to an appropriate number as determined by the Director of the Office of Personnel Management.
3. Eliminating veterans preference for retired military officers of field grade or above; limiting the availability of veterans preference for other retired military personnel to three years following retirement.
4. Replacing the absolute preference now accorded to veterans in RIF situations following their first three years of Federal

employment with a provision that would grant veterans an additional five years of seniority for purposes of determining their rights.

Discussion: The veterans preference issue will be one of the most controversial in the civil service reform legislation. The changes proposed, although limited, are likely to inspire vigorous opposition from organized veterans groups--especially the Veterans of Foreign Wars.

Nevertheless, it is worth noting that several States--Oregon, California, Wisconsin, and New Jersey--have either reduced veterans preference or are in the process of doing so. Veterans organizations have not been notably successful in resisting changes. Moreover, the last Congress significantly limited veterans preference when it ended such preference for those entering the service after September 30, 1976.

There are currently 27.4 million individuals eligible for veterans preference (not counting the 2.2 million veterans who are unaffected by this proposal). By operation of the 10-year limitation, the number of veterans eligible would drop to 4 million in 1981--assuming passage of the legislation in 1978. All of those remaining eligible would be Vietnam era veterans, with a then average age of 35 years.

Women's organizations will be disappointed by these changes and will argue that they do not go far enough. They may seek to reduce veterans preference further.

Pros.

- Provides broader latitude in the selection of employees.
- Provides greater opportunities for women to obtain Federal employment and greater protection in Reduction-In-Force situations.
- Reduces disincentives to the use of RIFs by managers.

- Reduces red tape in the hiring process by lowering the number of registers returned by agencies because their choice of applicant is blocked by a veteran.

Cons.

- Will generate opposition by veterans groups.
- Could distract public attention away from significant reforms proposed in the balance of the program.

Presidential Decision:

1. Limit Veterans Preference to ten years.

Approve _____

Disapprove _____

Other _____

2. Expand "Rule of Three".

Approve _____

Disapprove _____

Other _____

3. Limit preference for military retirees.

Approve _____

Disapprove _____

Other _____

4. Replace absolute preference in RIFs with five-year additional seniority.

Approve _____

Disapprove _____

Other _____

B. Equal Employment Opportunities.

The Reorganization Task Force on Civil Rights has recommended that the authority to enforce equal employment opportunity for Federal employees be transferred from the Civil Service Commission to the Equal Employment Opportunity Commission.

The advantages and disadvantages of that proposal are set forth in the decision memorandum to you on the Reorganization of Equal Employment Opportunity Laws and Programs.

*NEW
make 11 of
submitted*

2

As a group, the Federal officials mentioned above reject the notion that the government should agree to binding arbitration of disputes with unions. On the other hand, if the unions would support civil service reform and reorganization, most of these Federal officials feel it would be sound policy to agree that:

- (1) the Executive order on Federal labor relations be enacted into law, but with no changes in the scope of bargaining.
- (2) a Federal Labor Relations Board be created by legislation with three members appointed by the President and confirmed by the Senate. This Board would have duties similar to the NLRB in the private sector. It would replace the present Federal Labor Relations Council which consists of the Chairman of CSC, the Director of OMB and the Secretary of Labor.
- (3) there be a permanent mechanism for exchange of views between unions and Federal officials chaired by the Director of the Office of Personnel Management and including seven labor and seven agency representatives. This group would be purely advisory.

Secretary Brown has serious reservations about points one and three and Chairman Schultze has reservations on point two. The others agree that we should pursue more detailed discussions with the unions to find out whether these arrangements would produce union support or opposition for the total package or perhaps localize opposition to a few issues. However, before we do this, we need to be sure that you are willing for us to proceed along these lines.

Pros.

All three steps have the following advantages:

- Each represents a long-sought, significant goal of the Federal employee unions. To achieve them, the unions may be willing to support legislative proposals they would otherwise bitterly oppose.
- With union support, most of our legislative proposals are likely to be accepted by Congress

with only moderate and acceptable changes. Also Congressional action is more likely to be completed this year. With union opposition, defeat on some issues is a real possibility; controversy and delay are almost certain.

- Some labor experts would argue that these steps are relatively modest, represent sound public policy, and could lead to better labor/management relationships within the Federal government.
- These three steps will enhance this Administration's overall relationship with the AFL-CIO.
- If an agreement is not reached, the unions have said they will vigorously oppose the entire legislative package and the reorganization plan. This will force the Administration to undertake an unpleasant battle with the unions that will seriously harm the good relationships it has successfully built in the last year.

Cons.

All three steps have the following cons:

- Each step, and the three together, constitute significant movement in the direction of collective bargaining for the Federal workforce. Even if they are carefully hedged today, they will inevitably lead to further concessions in future years. If this development is not wisely handled, it could lead to the bad public consequences we have seen in other jurisdictions, e.g. New York City.
- Some Federal managers argue these bad consequences would become so likely that the legislation is not important enough to justify such a price. Even in the short run, they would expect these steps to result in the erosion of managerial rights and flexibilities, unwise compromises with labor's views, frustrating delays and importation from private sector labor practices of many restrictive and inefficient rules.

- Because the unions desire a more significant role than these steps would provide, it is possible that even all three steps together may not suffice to secure labor's support, and it is probable that only one or two of the three will not. Hence, it may be pointless to proceed with further discussions.

In addition to the above, there are some individual cons:

Step 1 (legislation)

Opens the possibility Congress will write in features not in the Executive order; lessens Presidential ability to revise labor relations policies when new problems arise; and increases the likelihood of judicial intervention.

Step 2 (FLR Board)

The power of such a board to chart its own course (by case decisions) is substantial. "Neutrals" are more likely than the present managerial officials to lead the program in a direction the President disapproves.

Step 3 (advisory board)

Unless the powers and scope of this body are carefully defined, it may tend to become more of a "negotiating" body which would force delays and undesirable compromises in policy-making; lead to over-centralization of personnel policy decisions; and infringe on the decentralization of personnel authority to departments which is a central feature of the rest of the reform effort.

Presidential Decision:

Proceed with discussions as outlined above on:

All three possibilities _____.

Only the following:

Legislation _____.

FLR Board _____.

Advisory board _____.

Discontinue discussions _____.

THE WHITE HOUSE
WASHINGTON

February 2, 1978

To Paul Drew

Through the courtesy of Phil Walden,
Rosalynn and I have received your letter.

We both thank you for your interest in
Chip and for your thoughtful suggestion
that he serve as Energy Ambassador to
the young people of America.

Sincerely,

Thanks!
Jimmy Carter

Mr. Paul Drew
Paul Drew Enterprises, Inc.
2151 North Hobart Boulevard
Los Angeles, California 90027

60 yr ltr rec'd through Phil Walden
His suggestion that Chip serve
as Energy Ambassador

7802021825

February 2, 1978

To Paul Drew

Through the courtesy of Phil Walden,
Rosalynn and I have received your letter.

We both thank you for your interest in
Chip and for your thoughtful suggestion
that he serve as Energy Ambassador to
the young people of America.

Sincerely,

Mr. Paul Drew
Paul Drew Enterprises, Inc.
2151 North Hobart Boulevard
Los Angeles, California 90027

cc: Mr. Paul Walden
Capricorn Records
535 Cotton Avenue
Macon, Georgia 31208

JC/mf/jmc/jfc

RECEIVED
FEB 7 1978

THE WHITE HOUSE
WASHINGTON

1/31/78

joyce cook --

please have presidential
drafted to paul drew (bcc to
phil walden)...thasnking him
for interest in chip and
suggestion that he serve as energy
ambassador ~~to~~..., etc.

thanks -- susan clough

CAPRICORN RECORDS

Ros
J

not
Susan, Can you
write answer to this?
R

December 27, 1977

Dear Mr. President:

I am enclosing a letter to you from a long time friend of mine, Paul Drew. Paul offers a suggestion as to Chip's activities when he returns to Washington. I do believe it is an area in which Chip could be tremendously effective.

I had the occasion to mention this letter to Rosalyn this morning on the telephone.

I trust your holidays were pleasant and, hopefully, you took the opportunity to rest a bit.

My best to Rosalyn and the family.

Very respectfully yours,

TH

The President
The White House
Washington, D.C. 20503

PAUL DREW ENTERPRISES, INC.

2151 North Hobart Boulevard
Los Angeles, California 90027
(213) 469-4100

December 13, 1977

President Jimmy Carter
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. President:

I am writing to you as a concerned American and a supporter of your Energy Program after conferring with a mutual friend, Phil Walden. I first met Phil in Atlanta fifteen years ago when I was a disc jockey there. (I understand some members of your staff listened to me during their high school years.)

It was through Phil that I met Chip, who I understand is returning to the White House with his family after the first of the year. This brings me to the purpose of this letter, which I hope will be helpful to the country, Chip and you.

We both know how important the Energy Program is to our future. Unfortunately, over the months, the media has found it more important to report about the politics surrounding the program and not its benefits. Lost in the struggle between the special interest groups, Congress and the White House is what the Energy Program really means to Americans. As a result, the American people are probably less informed today about energy in the future than they were several months ago. Precious time and educational opportunities have been lost.

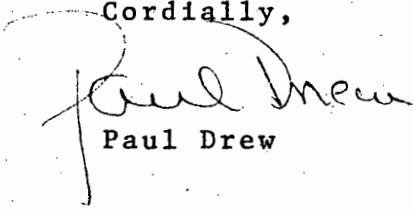
Mr. President, there is at least one group of Americans who I believe can be especially helpful to the meaning of your Energy Program. Young people. They have a larger stake in the future than any other group. They also have tremendous power when they become involved. (Look at what they did to Lyndon Johnson.) It is my suggestion that Chip serve as your Energy Ambassador to the young people of America, visiting high school and college groups to speak and answer questions about energy and conservation.

President Jimmy Carter
Page Two
December 13, 1977

I also believe it would be best for Chip to spend some of his time away from Washington and the insensitivities of the press. As your personal representative I believe Chip's involvement with the young people now and in the next couple of years will be beneficial to you in 1980.

I am looking forward to hearing from you and I would like to take this opportunity to tell you how much I enjoyed hearing what you had to say about Senator Humphrey on December 2. It was truly an evening of love and I consider myself most fortunate in having had an opportunity to be there to share so much.

Cordially,



Paul Drew

PD/rg

cc: Phil Walden